

Application Number	10/1211/FUL	Agenda Item	
Date Received	8th February 2011	Officer	Miss Catherine Linford
Target Date	5th April 2011		
Ward	Petersfield		
Site	The Emperor Public House 21 Hills Road Cambridge Cambridgeshire CB2 1NW		
Proposal	Retrospective application for smoking shelter in garden.		
Applicant	Mr David Utting The Emperor Public House 21 Hills Road Cambridge Cambridgeshire CB2 1NW		

1.0 SITE DESCRIPTION/AREA CONTEXT

- 1.1 The Emperor Public House is situated on the eastern side of Hills Road, adjacent to the junction of Hills Road and St Paul's Place, which is a private, unadopted road. The Public House building is situated approximately 13m from the junction of Hills Road and Cambridge Place, but the car park for the Public House, wraps around the rear boundary with 23 and 25 Hills Road, bringing the site boundary up to Cambridge Place. The site is situated within City of Cambridge Conservation Area 1 (Central).

2.0 THE PROPOSAL

- 2.1 This application seeks retrospective planning permission for an existing smoking shelter at the rear of the Public House, adjacent to the boundary with St Paul's Place. The shelter is 8.52m long x 2.42m wide. The roof of the shelter slopes away from the boundary, resulting in the shelter being 2.42m tall at the boundary and 2.09m tall at the front. The shelter is attached to a wooden, close-boarded fence, and consists of a wooden frame with a polycarbonate roof.

2.2 The close-boarded fence, which has recently been erected, does not require planning permission.

2.2 The application is accompanied by the following supporting information:

1. Design and Access Statement

3.0 SITE HISTORY

None.

4.0 PUBLICITY

4.1 Advertisement:	Yes
Adjoining Owners:	Yes
Site Notice Displayed:	Yes

5.0 POLICY

5.1 Central Government Advice

5.2 **Planning Policy Statement 1: Delivering Sustainable Development (2005):** Paragraphs 7 and 8 state that national policies and regional and local development plans (regional spatial strategies and local development frameworks) provide the framework for planning for sustainable development and for development to be managed effectively. This plan-led system, and the certainty and predictability it aims to provide, is central to planning and plays the key role in integrating sustainable development objectives. Where the development plan contains relevant policies, applications for planning permission should be determined in line with the plan, unless material considerations indicate otherwise.

5.3 **Planning Policy Statement 5: Planning for the Historic Environment (2010):** sets out the government's planning policies on the conservation of the historic environment. Those parts of the historic environment that have significance because of their historic, archaeological, architectural or artistic interest are called heritage assets. The statement covers heritage assets that are designated including Site, Scheduled Monuments, Listed Buildings, Registered Parks and Gardens and Conservation Areas and those that are not designated but

which are of heritage interest and are thus a material planning consideration. The policy guidance includes an overarching policy relating to heritage assets and climate change and also sets out plan-making policies and development management policies. The plan-making policies relate to maintaining an evidence base for plan making, setting out a positive, proactive strategy for the conservation and enjoyment of the historic environment, Article 4 directions to restrict permitted development and monitoring. The development management policies address information requirements for applications for consent affecting heritage assets, policy principles guiding determination of applications, including that previously unidentified heritage assets should be identified at the pre-application stage, the presumption in favour of the conservation of designated heritage assets, affect on the setting of a heritage asset, enabling development and recording of information.

5.4 Circular 11/95 – The Use of Conditions in Planning Permissions: Advises that conditions should be necessary, relevant to planning, relevant to the development permitted, enforceable, precise and reasonable in all other respects.

5.5 East of England Plan 2008

ENV6: The Historic Environment

ENV7: Quality in the Built Environment

5.6 Cambridge Local Plan 2006

3/1 Sustainable development

3/4 Responding to context

3/7 Creating successful places

3/12 The design of new buildings

4/11 Conservation Areas

5.7 Material Considerations

Area Guidelines

Cambridge Historic Core – Conservation Area Appraisal (2005): Guidance on the relationship between the Historic Core and new development.

6.0 CONSULTATIONS

Cambridgeshire County Council (Engineering)

6.1 No comment.

Head of Environmental Services

6.2 A condition preventing the use of the smoking shelter after 11:30pm has been discussed.

Historic Environment Manager

6.3 No objection.

6.4 The above responses are a summary of the comments that have been received. Full details of the consultation responses can be inspected on the application file.

7.0 REPRESENTATIONS

7.1 Councillor Lucy Walker has commented on this application, and has requested that it is determined by Committee.

7.2 The owners/occupiers of the following addresses have made representations:

- 14 Cambridge Place
- 15 Cambridge Place

7.3 The representations can be summarised as follows:

- Noise and nuisance;
- The shelter will increase the number of people using the garden area;
- Anti-social behaviour;
- The area is not suitable for a large pub;
- The shelter is inappropriate in a Conservation Area;
- The fence replaced a much better looking wall;
- The pub could be sold on and become a nightclub.

7.4 The above representations are a summary of the comments that have been received. Full details of the representations can be inspected on the application file.

8.0 ASSESSMENT

8.1 From the consultation responses and representations received and from my inspection of the site and the surroundings, I consider that the main issues are:

1. Context of site, design and external spaces
2. Residential amenity
3. Third party representations

Context of site, design and external spaces

8.2 The area of the pub garden where the shelter is situated is to the rear of the Public House and can only be seen clearly from St Paul's Place, as the garden area is screened from the car park by a close-boarded fence. Conservation Officers have no objection to the shelter, as in their opinion, this part of the Conservation Area very much consists of 'backyards', and the shelter is not therefore considered to detract from the character and appearance of the Conservation Area.

8.3 In the representations received, a query has been raised regarding the loss of a boundary wall and the replacement of this wall with a close-boarded fence. As this application is retrospective I have not been able to assess the wall in question on site. However, one of the representations received included a photograph of the wall, which appears to be no more than 2m in height, and the applicant would, therefore, not have needed Conservation Area Consent to demolish it. Likewise, the replacement fence is no more than 2m in height and would not, therefore, need planning permission.

8.4 In my opinion the proposal is compliant with Cambridge Local Plan (2006) policies 3/4, 3/7, 3/12 and 4/11.

Residential Amenity

Impact on amenity of neighbouring occupiers

8.5 Concern has been raised about noise, disturbance and anti-social behaviour from the Public House. It has been suggested that the shelter encourages the use of the garden area by more people and this increases the nuisance for the occupiers of neighbouring residential properties. While understanding this

concern, under this planning application it is only possible to control the use of the shelter and not the use of the entire garden area or the Public House. A condition restricting the hours of use of the shelter has been discussed with Environmental Health Officers, but in my view such a condition would be difficult to enforce and could therefore be considered unreasonable. While a condition could prevent customers from using the shelter, a customer could stand just outside the shelter and cause noise or disturbance which could be more audible because it is not under the shelter, without there being a breach of planning control. I am not therefore recommending a condition restricting the hours when the shelter might be used.

- 8.6 Concern has been raised that the Public House could be sold and become a nightclub, further increasing the noise and disturbance experienced. A Public House falls within Use Class A4, whereas a nightclub is a sui generis Use. This means that if the premises was to become a nightclub, a planning application for Change of Use would need to be submitted. The impact on neighbours would then be properly assessed, in context.
- 8.7 In my opinion the proposal adequately respects the residential amenity of its neighbours and the constraints of the site and I consider that it is compliant with and Cambridge Local Plan (2006) policies 3/4 and 3/7.

Third Party Representations

- 8.8 The issues raised in the representations received have been discussed under the headings above.

9.0 RECOMMENDATION

APPROVE:

1. Reasons for Approval

1. This development has been approved, conditionally, because subject to those requirements it is considered to conform to the Development Plan as a whole, particularly the following policies:

East of England plan 2008: ENV6, ENV7

Cambridge Local Plan (2006): 3/1, 3/4, 3/7, 3/12, 4/11

2. The decision has been made having had regard to all other material planning considerations, none of which was considered to have been of such significance as to justify doing other than grant planning permission.

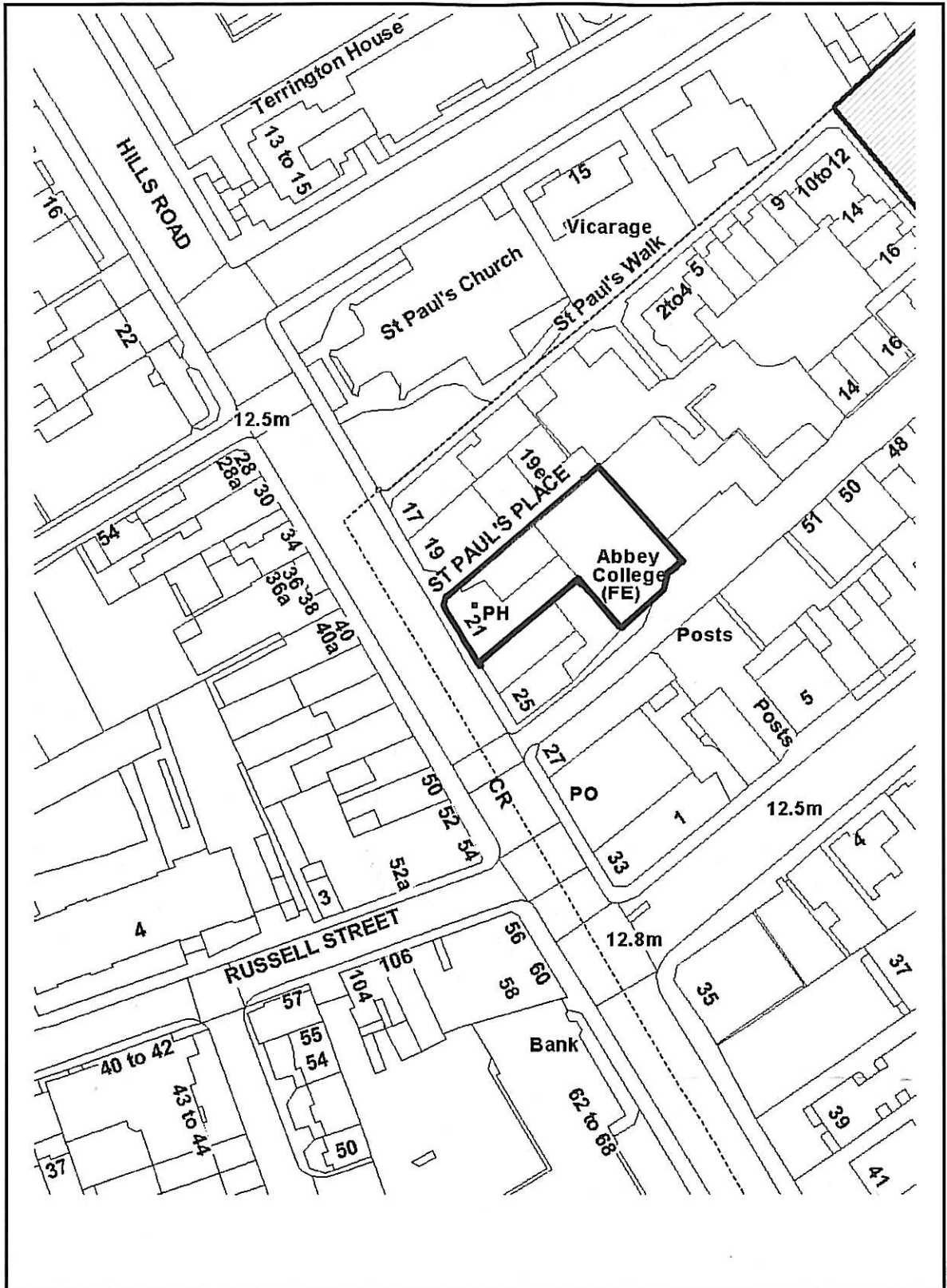
These reasons for approval can be a summary of the reasons for grant of planning permission only. For further details on the decision please see the officer report online at www.cambridge.gov.uk/planningpublicaccess or visit our Customer Service Centre, Mandela House, 4 Regent Street, Cambridge, CB2 1BY between 8am to 6pm Monday to Friday.

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Under Section 100D of the Local Government Act 1972, the following are “background papers” for each report on a planning application:

1. The planning application and plans;
2. Any explanatory or accompanying letter or document from the applicant;
3. Comments of Council departments on the application;
4. Comments or representations by third parties on the application as referred to in the report plus any additional comments received before the meeting at which the application is considered; unless (in each case) the document discloses “exempt or confidential information”
5. Any Structure Plan, Local Plan or Council Policy Document referred to in individual reports.

These papers may be inspected by contacting John Summers (Ext.7103) in the Planning Department.



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